

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DONALD A. BURISS,	:	CIVIL ACTION NO. 11-861 (MLC)
Plaintiff,	:	O P I N I O N
v.	:	
FARES SURGICAL ASSOCIATES, P.A., et al.,	:	
Defendants.	:	

THE PLAINTIFF PRO SE – not the defendants – removed this action from New Jersey state court. (Dkt. entry no. 1, Rmv. Not.; id., Ex. A, State Court Complaint.) The document filed by the plaintiff is a notice of removal; it is incorrectly identified on the docket as an original federal complaint. (See dkt. entry no. 1.)

"**[I]T IS AXIOMATIC** that a plaintiff may not remove an action to federal court." La Chemise Lacoste v. Alligator Co., 506 F.2d 339, 343 n.4 (3d Cir. 1974); see Conner v. Salzinger, 457 F.2d 1241, 1242-43 (3d Cir. 1972) (stating same); Redmer v. Bor. of Pine Beach, No. 91-4572, 1991 WL 247002, at *2 (D.N.J. Nov. 18, 1991) (stating "plaintiffs' attempt to remove their own case to federal district court is ineffectual"). The Court will therefore remand the action to state court. For good cause

appearing, the Court will issue an appropriate order and judgment.¹

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge

Dated: April 29, 2011

¹ The plaintiff asserts jurisdiction pursuant to 28 U.S.C. § 1332. (See Rmv. Not. at 1 (stating "jurisdiction founded on diversity of citizenship" and "Plaintiff is a citizen of . . . New Jersey and [two of the defendants] . . . are citizens of . . . Pennsylvania").) The assertion is without merit, as it is obvious from the face of the Complaint that several other defendants are New Jersey citizens, and thus the plaintiff is not a "citizen[] of [a] different State[]" in relation to each defendant. 28 U.S.C. § 1332(a)(1); see Lincoln Prop. Co. v. Roche, 546 U.S. 81, 89 (2005) (reading "the statutory formulation 'between . . . citizens of different States' to require complete diversity between all plaintiffs and all defendants" (emphasis added)).